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**From:** Ed Stone -MDE- [ed.stone@maryland.gov]  
**Sent:** 4/17/2020 2:53:27 PM  
**To:** Price-Fay, Michelle [Price-Fay.Michelle@epa.gov]  
**Subject:** Re: general permit expiration topic (hopefully this topic is not expired ;-)

Ok, 1. Our current construction permit extension language is solid and very clear. The industrial is also clear in our view but open to ones interpretation. For industrial, are you going to require individual permits in DC when EPA misses their renewal deadline in June and the permit is expired?



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On Fri, Apr 17, 2020 at 10:50 AM Price-Fay, Michelle <[Price-Fay.Michelle@epa.gov](mailto:Price-Fay.Michelle@epa.gov)> wrote:

Happens to the best of us...

Let's talk at 1. Why don't you give me a call at the number below. It rings through to my work cell.

I did ask Liz to do a historic review of communication. With regard to the construction general permit, MDE had a similar situation in the 2014 ish timeframe and while the communication on the extension of the construction permit wasn't totally clear, I can tell you that the individual construction permits were issued when new sites could not be permitted under the expired construction general permit as MDE was working on reissuance. I did see some emails between EPA and MDE that provided examples of those permits that happened to be military installations.

Michelle Price-Fay, Chief

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**From:** Ed Stone -MDE- <[ed.stone@maryland.gov](mailto:ed.stone@maryland.gov)>

**Sent:** Friday, April 17, 2020 10:42 AM

**To:** Price-Fay, Michelle <[Price-Fay.Michelle@epa.gov](mailto:Price-Fay.Michelle@epa.gov)>

**Subject:** Re: general permit expiration topic (hopefully this topic is not expired ;-)

I apologize this response got stuck in drafts folder after multiple interruptions... tomorrow now means today. Do you prefer monday or tuesday?

Hi Michelle,

I have meetings after 3 pm tomorrow and from 11 to 12. So the a.m. is good or between 12 and 3. Anything still work for you? And thanks for the response, but those are standard references quite familiar to all but may not translate easily in the terminology of general permit regulations.



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On Wed, Apr 15, 2020 at 5:21 PM Price-Fay, Michelle <[Price-Fay.Michelle@epa.gov](mailto:Price-Fay.Michelle@epa.gov)> wrote:

Hello Ed,

We are all healthy on our end. Hope it is the same with you and yours. I wanted to get back to you today and we can follow up with a discussion. I had thought on the call that you had referenced language in EPA's general permits that provided for new registrations and that following the call you had researched the issue and found that the permits did not include what you had anticipated. Forgive any misunderstanding. I will also check to see if we provided a response to Lee's question on background for the residual designation for the Back River. The regulation information is below:

The 5 year term is a regulation and it can be found at 40 C.F.R. §122.46(a) (applicable to states per 40 C.F.R. § 123.25) state that "NPDES permits shall be effective for a fixed term not to exceed five years."

In addition the regulations for administrative continuance of expired permits are found in 40 CFR § 122.6 – Continuation of expired permits.

From EPA's website I have provided the following:

In addition, NPDES permits can be administratively extended if the facility reapplies more than 180 days before the permit expires, and EPA or the state regulatory agency that issued the original permit, does not renew the permit before its expiration date through no fault of the permittee.

I don't have any availability tomorrow but I can talk on Friday. Let me know if you are available. I also asked my staff to look for any historic communication on this issue.

Thanks,

Michelle

Michelle Price-Fay, Chief

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**From:** Ed Stone -MDE- <[ed.stone@maryland.gov](mailto:ed.stone@maryland.gov)>  
**Sent:** Wednesday, April 15, 2020 3:36 PM  
**To:** Price-Fay, Michelle <[Price-Fay.Michelle@epa.gov](mailto:Price-Fay.Michelle@epa.gov)>  
**Subject:** general permit expiration topic (hopefully this topic is not expired ;-)

Hi Michelle,

I hope you and your team at EPA are all staying well! Some time ago I asked for the regulation regarding expired general permits in support of your position to demonstrate it was a rule and not a preference. I also believe I stated that we are willing to consider this approach in the implementing language of future permits, but not to superimpose it on existing permits. Such a radical change at this juncture would make us all liable to legal action by the regulated community who would have a strong basis for their position with regard to a sudden arbitrary and capricious policy that is not supported by any new regulation at the time of the change in how the permits are being viewed and enforced.

Please give me a call to discuss at your earliest convenience. If you use Microsoft Teams for teleconference, I can handle that, or I can set up a google hangouts call, or just call my cell phone 410-529-7404.

Thanks,

Ed



**Ed Stone**

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